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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,919	01/17/2006	Mauro Barbieri	NL 030869	5313

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

CHOWDHURY, NIGAR

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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10/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see remark pages 6-10, filed on 7/12/2010, with respect to claims 1-2, 4-13 have been fully considered and are persuasive. The rejection of claims 1-2, 4-12 has been withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in Sec. 101.

... a signal does not fall within one of the four statutory classes of Sec. 101.

... signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of Sec. 101.

1. Claim(s) 13 is/are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 13 is drawn to functional descriptive material recorded on a computer-readable medium having a computer program. Normally, the claim would be statutory.

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"In the state of the art, transitory signals are commonplace as a medium for transmitting computer instruction and thus, in the absence of any evidence to the contrary and give the broadest reasonable interpretation, the scope of a "computer readable medium" covers a signal per se."

Allowable Subject Matter

Claims 1-2, 4-12 are allowed.

The following is an examiner's statement of reasons for allowance: The present invention is directed to a method of detecting a boundary of a content item in a digital video stream.

The following is a statement of reasons for the indication of allowable subject matter: The independent claim 1 identifies the uniquely distinct feature for "determining, in a processor, an average bit rate of an incoming digital video stream over a period of time; detecting locations of shot-cuts in the digital video stream; adjusting the period of time in the determining step based on the detected shot-cut locations; and detecting, in a detector, a change of the average bit rate, a location in the video stream of the change in the average bit rate being indicative of a boundary of the content item".

The following is a statement of reasons for the indication of allowable subject matter: The independent claim 10 identifies the uniquely distinct feature for "means for detecting locations of shot-cuts in the digital video stream; means for adjusting a period of time based on the detected locations of shot-cuts; means for determining a

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moving average bit rate of a the digital video stream over the period of time; and means for detecting a change of the moving average bit rate, a location of said detected change being indicative of the boundary of the content item”.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIGAR CHOWDHURY whose telephone number is (571)272-8890. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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NC

09/30/2010

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621